

COMMITTEE ON LEGISLATIVE RESEARCH  
OVERSIGHT DIVISION

**FISCAL NOTE**

L.R. No.: 0203-01  
Bill No.: HB 307  
Subject: Health Care; Health Care Professionals  
Type: Original  
Date: February 10, 2015

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Bill Summary: This proposal establishes the Missouri Death with Dignity Act to allow patients with terminal disease to end their life in a humane and dignified manner.

**FISCAL SUMMARY**

<b>ESTIMATED NET EFFECT ON GENERAL REVENUE FUND</b>			
FUND AFFECTED	FY 2016	FY 2017	FY 2018
General Revenue	(\$126,893)	(\$69,201)	(\$70,224)
<b>Total Estimated Net Effect on General Revenue</b>	<b>(\$126,893)</b>	<b>(\$69,201)</b>	<b>(\$70,224)</b>

<b>ESTIMATED NET EFFECT ON OTHER STATE FUNDS</b>			
FUND AFFECTED	FY 2016	FY 2017	FY 2018
Insurance Dedicated	Unknown less than \$100,000	\$0	\$0
<b>Total Estimated Net Effect on <u>Other</u> State Funds</b>	<b>Unknown less than \$100,000</b>	<b>\$0</b>	<b>\$0</b>

Numbers within parentheses: ( ) indicate costs or losses.  
This fiscal note contains 8 pages.

<b>ESTIMATED NET EFFECT ON FEDERAL FUNDS</b>			
<b>FUND AFFECTED</b>	<b>FY 2016</b>	<b>FY 2017</b>	<b>FY 2018</b>
<b>Total Estimated Net Effect on <u>All</u> Federal Funds</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

<b>ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)</b>			
<b>FUND AFFECTED</b>	<b>FY 2016</b>	<b>FY 2017</b>	<b>FY 2018</b>
General Revenue	1	1	1
<b>Total Estimated Net Effect on FTE</b>	<b>1</b>	<b>1</b>	<b>1</b>

☒ Estimated Net Effect (expenditures or reduced revenues) expected to exceed \$100,000 in any of the three fiscal years after implementation of the act.

<b>ESTIMATED NET EFFECT ON LOCAL FUNDS</b>			
<b>FUND AFFECTED</b>	<b>FY 2016</b>	<b>FY 2017</b>	<b>FY 2018</b>
<b>Local Government</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

## **FISCAL ANALYSIS**

### **ASSUMPTION**

Officials at the **Department of Health and Senior Services (DHSS)** assume it is unknown how many people each year would actually request medication under the Missouri Death with Dignity Act. For fiscal note purposes, DHSS estimates 30 Missouri residents in the first year and slowly increase to about 150 after 10-12 years (based on the state of Oregon's experience that passed similar legislation in 1997). DHSS will need the following staff to manage the Missouri Death with Dignity Act:

One Health Program Representative I-II (\$30,672 annually):

This position shall manage responsibilities outlined in the Death with Dignity Act, draft rules to carry out the provisions of §§191.1500-191.1565; assure the development of forms, educational materials, and website content; coordinate education of the citizens, physicians, and other licensed health care providers about the Act; perform a desk review of various forms submitted by physicians for completeness; follow up with data providers for missing/ incomplete information or forms; perform data entry from forms, match forms to filed death certificates; and serve as a liaison to public and private entities that will assist in education.

0.5 Research Analyst I-II (\$30,672 annually):

This position will review electronic data from the Death with Dignity Act and data from the matched death certificates, and generate and make available to the public the annual statistical report of information required in §191.1539.

Minimal printing costs are anticipated. The required forms will be posted to the DHSS' website for electronic access by data providers. The annual report will also be posted to the Department's website.

**Oversight** assumes the DHSS would not need an additional 0.5 FTE research analyst and would assign the duties to existing staff. In addition, Oversight assumes the DHSS would not need additional rental space for one (1) FTE. However, if other provisions pass which require the hiring of additional staff, the DHSS may need to request additional rental space through the appropriations process.

§191.1539 requires DHSS to develop and implement a new reporting system. Office of Administration, Information Technology Services Division (ITSD) services will be needed to create at a minimum an electronic data entry and storage system. The total cost for IT services in FY 2016 is estimated to be \$84,078; \$17,236 in FY 2017; and \$17,667 in FY 2018.

ASSUMPTION (continued)

Officials from the **Department of Insurance, Financial Institutions and Professional Registration (DIFP)** state the department estimates there may be a need for contracted insurance product reviews for the influx of one-time policy form filings anticipated upon this bill becoming law. The DIFP believes it currently has enough appropriation to cover the contracted reviews, but if the contracted reviews cost more than anticipated, or if the workload to the department is greater than anticipated, the DIFP will request additional appropriation and/or FTE through the budget process.

At the present time, the DIFP is unable to determine a fiscal impact to the department. The impact would be to the Insurance Dedicated Fund. Any form filing fee revenue would be one-time revenue.

Based on discussions with DIFP officials, **Oversight** assumes total one-time form filing fees would be less than \$100,000.

For the purpose of this proposed legislation, officials from the **Office of State Public Defender (SPD)** cannot assume that existing staff will provide competent, effective representation for any new cases where indigent persons are charged with the proposed new crimes regarding a patient's wish to die. If this legislation should pass a new felony and a new misdemeanor will be created.

While the number of new cases (or cases with increased penalties) may be too few or uncertain to request additional funding for this specific bill, the SPD will continue to request sufficient appropriations to provide effective representation in all cases.

**Oversight** assumes the SPD can absorb the additional caseload that may result from this proposal.

Officials from the **Missouri Office of Prosecution Services (MOPS)** assume the proposal will have no measurable fiscal impact on MOPS. The creation of a new crime creates additional responsibilities for county prosecutors which may, in turn, result in additional costs, which are difficult to determine.

**Oversight** assumes the potential responsibilities imposed on county prosecutors as a result of this proposal, will be absorbable within current funding and staffing levels.

Officials from the **Office of the Secretary of State (SOS)** state many bills considered by the General Assembly include provisions allowing or requiring agencies to submit rules and regulations to implement the act. The SOS is provided with core funding to handle a certain

ASSUMPTION (continued)

amount of normal activity resulting from each year's legislative session. The fiscal impact for this fiscal note to the SOS for Administrative Rules is less than \$2,500. The SOS recognizes that this is a small amount and does not expect that additional funding would be required to meet these costs. However, the SOS also recognizes that many such bills may be passed by the General Assembly in a given year and that collectively the costs may be in excess of what the office can sustain with the core budget. Therefore, the SOS reserves the right to request funding for the cost of supporting administrative rules requirements should the need arise based on a review of the finally approved bills signed by the governor.

**Oversight** assumes the SOS could absorb the costs of printing and distributing regulations related to this proposal. If multiple bills pass which require the printing and distribution of regulations at substantial costs, the SOS could request funding through the appropriation process.

Officials from the **Department of Corrections**, the **Department of Public Safety**, **Office of the Director** and the **Missouri State Highway Patrol**, the **Joint Committee on Administrative Rules** and the **Office of State Courts Administrator** each assume the proposal would not fiscally impact their respective agencies.

<u>FISCAL IMPACT - State Government</u>	FY 2016 (10 Mo.)	FY 2017	FY 2018
<b>GENERAL REVENUE FUND</b> (§§191.1500 - 191.1565)			
<u>Costs - DHSS</u>			
Personal service	(\$25,560)	(\$30,979)	(\$31,289)
Fringe benefits	(\$13,292)	(\$16,111)	(\$16,272)
Equipment and expenses	(\$3,963)	(\$4,875)	(\$4,996)
IT services	<u>(\$84,078)</u>	<u>(\$17,236)</u>	<u>(\$17,667)</u>
<u>Total Costs - DHSS</u>	<u>(\$126,893)</u>	<u>(\$69,201)</u>	<u>(\$70,224)</u>
FTE Change - DHSS	1 FTE	1 FTE	1 FTE
<b>ESTIMATED NET EFFECT ON THE GENERAL REVENUE FUND</b>	<b><u>(\$126,893)</u></b>	<b><u>(\$69,201)</u></b>	<b><u>(\$70,224)</u></b>
Estimated Net FTE Change on the General Revenue Fund	1 FTE	1 FTE	1 FTE

<u>FISCAL IMPACT - State Government</u>	FY 2016 (10 Mo.)	FY 2017	FY 2018
<b>INSURANCE DEDICATED FUND</b>			
<u>Income - DIFP (§§191.1500 - 191.1565)</u>			
Form filing fees	<u>Unknown less than \$100,000</u>	<u>\$0</u>	<u>\$0</u>
<b>ESTIMATED NET EFFECT ON THE INSURANCE DEDICATED FUND</b>	<b><u>Unknown less than \$100,000</u></b>	<b><u>\$0</u></b>	<b><u>\$0</u></b>
 <u>FISCAL IMPACT - Local Government</u>	 FY 2016 (10 Mo.)	 FY 2017	 FY 2018
	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>

FISCAL IMPACT - Small Business

No direct fiscal impact to small businesses would be expected as a result of this proposal.

FISCAL DESCRIPTION

This proposal establishes the Missouri Death With Dignity Act that allows a qualified person to request and obtain a prescription for medication to end his or her life.

The patient's attending physician at the time the request is signed is prohibited from being a witness. If the patient is a patient in a long-term care facility at the time the written request is made, one of the witnesses must be an individual designated by the facility and having the qualifications specified by the Department of Health and Senior Services by rule.

The department is required to annually review all records maintained under these provisions and must require any health care provider upon dispensing medication to file a copy of the dispensing record with the department. The department must adopt rules to facilitate the collection of information regarding compliance with these provisions, and the information collected is not a public record and must not be made available for inspection by the public. The department must generate and make available to the public an annual statistical report of the information collected.

### FISCAL DESCRIPTION (continued)

Suspension or termination of staff membership or privileges is not reportable to the department or the State Board of Registration for the Healing Arts and action taken under these provisions must not be the sole basis for a report of unprofessional conduct. A person who without authorization of the patient willfully alters or forges a request for medication or conceals or destroys a rescission of that request with the intent or effect of causing the patient's death is guilty of a class A felony. A person who coerces or exerts undue influence on a patient to request medication to end the patient's life or to destroy a rescission of a request is guilty of a class A felony. Further liability for civil damages resulting from other negligent conduct or intentional misconduct by any person is not limited by these provisions, and the penalties do not preclude criminal penalties applicable under other law for conduct that is inconsistent with these provisions.

Any governmental entity that incurs costs resulting from a person terminating his or her life in a public place has a claim against the estate of the person to recover the costs and reasonable attorney fees related to enforcing the claim. The bill specifies the form in which a request for medication must be made.

Any person who, without authorization of the principal, willfully alters, forges, conceals, or destroys an instrument, the reinstatement or revocation of an instrument, or any other evidence or document reflecting the principal's desires and interests with the intent and effect of causing a withholding or withdrawal of life-sustaining procedures or of artificially administered nutrition and hydration which hastens the death of the principal is guilty of a class A felony. Any person who, without authorization of the principal, willfully alters, forges, conceals, or destroys an instrument, the reinstatement or revocation of an instrument, or any other evidence or document reflecting the principal's desires and interests with the intent and effect of affecting a health care decision is guilty of a class A misdemeanor.

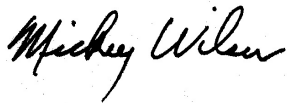
This legislation is not federally mandated, would not duplicate any other program and would not require additional capital improvements or rental space.

### SOURCES OF INFORMATION

Department of Health and Senior Services  
Department of Insurance, Financial Institutions and Professional Registration  
Department of Corrections  
Department of Public Safety -  
    Office of the Director  
    Missouri State Highway Patrol  
Joint Committee on Administrative Rules

SOURCES OF INFORMATION (continued)

Missouri Office of Prosecution Services  
Office of State Courts Administrator  
Office of Secretary of State  
Office of State Public Defender

A handwritten signature in black ink that reads "Mickey Wilson". The signature is written in a cursive, flowing style.

Mickey Wilson, CPA  
Director  
February 10, 2015

Ross Strobe  
Assistant Director  
February 10, 2015